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TREATY ON INTERNATIONAL RADIO FREQUENCIES (WARC-79)

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Mr. PERCY, from the Committee on Foreign Relations, submitted the following

REPORT

[To accompany Treaty Doc. 97-21]

The Committee on Foreign Relations, to which was referred the Radio Regulations (Geneva, 1979) and a Final Protocol, signed on behalf of the United States at Geneva, December 6, 1979, with several reservations, having considered the same, reports favorably thereon with one condition and recommends that the Senate give its advice and consent to ratification thereof.

PURPOSE

This treaty embodies the radio frequency allocations and other agreements reached at the 1979 World Administrative Radio Conference: the so-called Final Acts of WARC-79. That conference was the first international meeting in two decades to consider the entire range of radio services, including AM broadcasting, mobile and amateur services, satellite broadcasting, and other uses. The objective of such an agreement is to establishment and maintain a fair and efficient allocation of the radio spectrum for the range of different uses and to avoid international disagreement and interference.

BACKGROUND

The 1979 World Administrative Radio Conference (WARC), held in Geneva from September 24 through December 6, 1979, as a legislative organ of the International Telecommunications Union (ITU), met to reassess frequency allocations to all radio services throughout the world, as well as administrative and regulatory aspects of the radio regulations. The conference produced a 984-page document—the Final Acts of WARC-79—which sets forth radio regulations, resolutions and recommendations. These Final Acts will be ratified as a multilateral agreement by most countries of the world.

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Hundreds of thousands of staff hours, millions of dollars and tens of millions of pages were expended in preparation for and conduct of this conference. Nineteen federal agencies, with the organizational guidance of the National Telecommunications and Information Administration (NTIA) in the Department of Commerce, and under the delegation leadership of the Department of State, were involved in the U.S. effort. The conference itself had more than 2,000 delegates from the 142 member administrations, with 69 of them on the U.S. delegation.

WARC–79 was the first international meeting in two decades to consider the entire range of radio services, although seven WARCs had been held during that period to consider specific radio services: two on space, two on aeronautical, two on maritime, and one on broadcasting satellites in the 12 gigahertz (GHz) band.

Deliberations leading up to the conference reflected concerns that it would become a politicized forum for airing the grievances and demands of developing countries: especially the call for a "New World Information Order." (The 1977 WARC and several previous ITU conferenecs had produced mixed results from the point of view of the United States, some of which were improved in the 1979 conference.) However, on balance, such fears were not borne out by either the proceedings or the results of the conference, both of which displayed a pragmatic approach to the issues and a realistic resolution of the problems involved.

MAJOR PROVISIONS

As summarized by the Department of State, the major outcomes of the 1979 WARC were as follows:

1. The frequency band for AM broadcasting was expanded to allow the eventual addition of new channels.

2. The high frequency allocations for broadcasting, maritime mobile and amateur services were increased. In the case of the broadcasting and maritime mobile services, the increases will become available over the next ten to fifteen years. Since the Conference did not expand the bands for these two services as much as we thought necessary, the United States entered reservations in the Final Protocol.

3. Existing allocations for military mobile satellite systems in the band 235–400 MHz were retained by the Conference. Unacceptable conditions, however, were placed on the operation of such systems and therefore an appropriate reservation was included in the Final Protocol. New allocations proposed in higher bands by the United States to accommodate our worldwide satellite systems for national security were fully satisfactory with one exception. In the 7 and 8 GHz band the Conference failed to adopt all the provisions proposed by the United States, which will lead to some loss of desired system flexibility; the results, however, are acceptable.

4. The Conference added new allocations for fixed and mobile services in several frequency bands that were allocated exclusively to the radiolocation service for many years. These bands are used primarily for defense radar systems. Since the Conference decisions imposed unreasonable operating conditions and a sig-

nificant loss of flexibility in the use of such systems throughout the world, the United States entered a reservation in the Final Protocol.

5. Major new allocations were adopted for the land mobile service in the band 470–960 MHz. The United States had previously decided to share parts of this band between television broadcasting and land mobile services on a national basis. The new provisions will provide even greater flexibility for domestic decision-making and implementation of these services. The United States entered a reservation in the Final Protocol in respect to an added requirement to obtain the agreement of other nations to our use of land mobile services by means of a new international coordination procedure; the reservation recorded a commitment that such usage would, however, be coordinated with neighboring countries which are affected. The Conference also allowed for the provision of mobile satellite service in part of the band.

6. New allocations for the radionavigation satellite service were adopted in two bands to satisfy requirements of the United States NAVSTAR Global Positioning System.

7. Allocation provisions for the maritime mobile satellite service were expanded in the 1600 MHz band, primarily to meet foreseen requirements of an international system envisaged by the International Maritime Satellite Organization (INMARSAT).

8. Substantial new allocations were adopted for the fixed satellite service in several bands to satisfy projected needs of both domestic and international systems, as well as for use in conjunction with other space services, such as feeder links for broadcasting satellites. In taking these decisions, the Conference affected other radio services used primarily for defense applications which may result in additional economic and technological costs and some loss of operational flexibility in the future. In this regard, the United States joined several other countries in an informal statement recognizing the importance to the International Telecommunications Satellite Organization (INTELSAT) of the new bands for fixed satellite services at 3 and 4 GHz, as well as the importance of the bands to the aforementioned defense uses.

9. Major new allocations were adopted for the fixed satellite and broadcasting satellite services in the band 11.7–12.7 GHz, which were fully responsive to the proposals and objectives of the United States at the Conference. The decisions taken greatly improve on the allocation provisions that had been agreed at earlier radio conferences. Planning for the use of the upper half of the band by broadcasting satellites will be the subject of a regional radio conference scheduled for 1983. Any potential impact on use of the band by other radio services, such as terrestrial microwave systems, is primarily a matter for consideration and decision within the domestic regulatory process.

10. A large number of new allocations throughout the spectrum were adopted to meet requirements for earth exploration (remote sensing), space research, radio astronomy and other scientific applications.

11. The Conference adopted specific allocations for a wide variety of radio services in the bands above 40 GHz, which will provide guidance for the development of new services and technology and satisfy foreseen requirements in the long term.

COMMITTEE ACTION

The Committee received the proposed treaty on November 24, 1981. A hearing was held on May 18, 1982, chaired by Senator Mathias. Administration witnesses included representatives from the Departments of State, Commerce, and Defense, and from the Federal Communications Commission. Testimony was also received from a representative of Motorola, Inc., and from officers of the American Radio Relay League. All the witnesses urged early Senate action on the treaty. The Committee is not aware of any opposition to its ratification by the United States.

On September 21, 1982, the Committee ordered reported the treaty favorably with the recommendation that the Senate give its advice and consent to ratification.

COMMITTEE COMMENTS

The Committee recommends ratification of the treaty without amendments, reservations or understandings affecting the international legal obligations of the United States. The Committee takes note of the fact that the United States delegation entered a number of imporant reservations, and made several joint and unilateral statements, at the time of signature. The following summary of those conditions was provided by the Department of State:

The Final Protocol contains a number of reservations and statements submitted by the United States alone or jointly with other countries. The major substantive reservation involves changes to the Table of Frequency Allocations and reads as follows:

> The delegation of the United States of America formally declares that the United States of America does not, by signature of these Final Acts on its behalf, accept certain decisions taken by this Conference in regard to the Table of Frequency Allocations and the associated footnotes, and therefore, the United States of America:
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> 1. In view of the fact that this Conference has failed to provide adequate allocations for the HF broadcasting service, particularly at 6 and 7 MHz, reserves on this matter as indicated in a separate statement made jointly with the delegations of Saudi Arabia, Cyprus, Spain, Greece, the United Kingdom, Sri Lanka and Zambia;
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> 2. Reserves the right to operate stations in the mobile satellite service in the frequency range 235 to 399.9 MHz as indicated in a separate statement made jointly with the delegations of the Federal Republic of Germany, Belgium, Denmark, Greece, Iceland, Italy, Luxembourg, Norway, the Netherlands, Portugal, the United Kingdom and Turkey;
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> 3. In the operation of stations in the radiolocation service on a primary basis in the bands 430–440 MHz, 5 650–5 850 MHz, 8 500–8 750 MHz, 8 850–9 000 MHz, 9 200–9 300 MHz, 9 500–9 800 MHz, 10 000–10 500 MHz, 13.4–14 GHz, 15.7–17.3 GHz and 33.4–36 GHz, cannot guarantee protection to or coordination with other services;

4. Reserves the right to operate stations in the fixed, mobile and radiolocation services on a primary basis in bands as specified in the footnotes pertinent to frequency bands 470–860 MHz and 890–960 MHz without the condition specified in these footnotes that make such operations subject to agreement under Article 14. The United States will coordinate its usage of such services with neighbouring administrations which are affected;

5. In view of the fact that the Conference failed to provide adequate allocations for the HF maritime mobile service, particularly below 12 MHz, states its intention to satisfy maritime mobile requirements in the several HF bands below 10 MHz allocated to the mobile service on a primary basis.

The joint statement referred to in sub-paragraph 1 above is as follows:

In the view of the above-mentioned Administrations this conference has failed to make adequate provision for the needs of the HF broadcasting service in the revised allocations, particularly at 6 and 7 MHz. Unless authority is given to the proposed HF Broadcasting Conference, by its agenda, for it to make use of some parts of the spectrum allocated to the fixed service, that Conference will not be able to plan all frequency bands to enable countries to sustain their broadcasting services in the face of varying propagation conditions throughout the solar cycle. In the absence of an adequate plan, the above-mentioned administrations reserve their right to take the necessary steps to meet the needs of their HF broadcasting services.

The joint statement by NATO countries referred to in sub-paragraph 2 above is as follows:

The above-mentioned administrations reserve their right to operate systems in the mobile satellite service in the frequency range 235–399.9 MHz under the provisions of the relevant footnote to the Table of Frequency Allocations, subject only to coordination as prescribed in Article 14. The additional provision of this footnote imposes a condition of non-interference which could lead to a request to cease operation of a previously coordinated satellite system in the case where an administration, despite having agreed to such a satellite system, puts into service or merely plans a system that might receive harmful interference. Such a condition is unacceptable to the above administrations.

The United States also submitted a statement for the record regarding intentional jamming of certain of our international broadcasting in the high frequency bands. It is noteworthy that this subject did not arise at any time in discussions during the Conference. That text of the statement is as follows:

The administration of the United States of America, calling attention to the fact that some of its broadcasting in the high frequency bands allocated to the broadcasting service

> are subject to willful harmful interference by administrations that are signatory to these Final Acts, and that such interference is incompatible with the rational and equitable use of these bands, declares that for as long as this interference exists, it reserves the right with respect to such interference to take necessary and appropriate actions to protect its broadcasting interests. In so doing, however, it intends to respect the rights, to the extent practicable, of administrations operating in accordance with these Final Acts.

In the Final Protocol, the United States responded to a statement submitted by Cuba which was directed at our use of radio frequencies in Guantanamo and, jointly with twenty-two other countries, to statements submitted by equatorial countries regarding their claim of sovereignty to the geostationary orbit above their territory.

The Final Protocol associated with the partial revision (TIAS 8599; 28 UST 3909) adopted at the World Maritime Administrative Radio Conference, Geneva, 1974, contained a United States reservation as follows:

> The Delegation of the United States of America formally declares that the United States of America does not, by signature of these Final Acts on its behalf, accept any obligation in respect of the Frequency Allotment Plan for Coast Radiotelephone Stations Operating in the Exclusive Maritime Mobile Bands between 4,000 kHz and 23,000 kHz and the associated implementing procedures, and that, although the United States of America will observe the provisions of the Plan and implementing procedures to the extent practicable, pending the results of a future World General Administrative Radio Conference, the United States of America reserves its right to take such measures as may be necessary to protect its maritime radiotelephony interests.

This reservation was made because the frequency allotment plan, from our viewpoint, created impractical sharing arrangements both within United States allotments and externally. Due to the multitude of allotments on each channel, the elimination of use priorities, the adoption of unworkable implementation procedures, and the authority given to the International Frequency Registration Board to make allotments on an arbitrary basis, the revised allotment plan and its associated procedures were felt to be incompatible with the official and public correspondence needs of the United States. The 1979 Conference adopted the frequency allotment plan without change. As the reasons for our earlier dissatisfaction continue to be relevant, the United States should indicate at the time of depositing its ratification with the Secretary General of the ITU that this reservation is still applicable.

PROVISO ON IMPLEMENTATION

However, the Committee has recommended Senate advise and consent subject to a single proviso relating to the domestic implementation of one aspect of the treaty. Several industry representatives expressed written concern to the Committee that the introduction of new services for direct broadcasting from satellites should not be allowed

to unduly disrupt the terrestrial fixed microwave communications already making use of the 12.2–12.7 GHz. The Committee therefore agreed to include language in the resolution of ratification admonishing the Federal Communications Commission to take all reasonable care to minimize any such disruption. The Commission has made clear to the Committee that it already shares this objective and regards its Report and Order of June 23, 1982 (released on July 14, 1982) relating to Direct Broadcast Satellites, as fully consistent with the Committee's proposed condition.

ENTRY INTO FORCE

In accordance with the agreement, the 1979 Radio Regulations will come into force on the date that the instruments of ratification are deposited for the United States. For countries which had already ratified the regulations, they came into force on January 1, 1982. Article 25 and Appendix 43 (relating to identification of stations) and Article 66 (relating to maritime accounting) became effective on January 1, 1981. The Frequency Allotment Plan for the Aeronautical Mobile (R) Service and the directly related provisions contained in Appendix 27 Aer2 will become effective on February 1, 1983.

TEXT OF RESOLUTION OF RATIFICATION

Resolved (*two thirds of the Senators present concurring therein*), That the Senate advise and consent to the ratification of The Radio Regulations (Geneva, 1979) and a Final Protocol signed on behalf of the United States at Geneva, December 6, 1979, with several reservations, provided that in the implementation of this treaty for the United States, the introduction of a Direct Broadcasting Satellite Service into the 12.2–12.7 GHz band shall be carried out in a manner which minimizes unreasonable disruptions to existing uses in that band.

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